



भारत का राजपत्र

The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 2

PART II—Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

३०/६/९८
MS

सं ८] नई दिल्ली, सोमवार, जून १, १९९८ / ज्येष्ठ ११, १९२०
No. ८] NEW DELHI, MONDAY, JUNE 1, 1998/ Jaistha 11, 1920

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 1st June, 98:—

I

BILL NO. VI OF 1998

A Bill further to amend the Merchant Shipping Act, 1958.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Merchant Shipping (Amendment) Act, 1998.

(2) It shall be deemed to have come into force on the 26th day of September, 1997.

Short title and
commencement

2. In section 89 of the Merchant Shipping Act, 1958 (hereinafter referred to as the principal Act), after clause (d), the following clause shall be inserted, namely:—

Amendment of
section 89

"(dd) to transmit the complaint of any dispute of a foreign seaman of a vessel, registered in a country other than India, in Indian territorial waters, with the master, owner or agent, to the competent authority of the country of registration and a copy of such complaint shall be forwarded to the Director General, International Labour Organisation Office;".

Amendment of
section 132.

3. In section 132 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

“(JA) Any complaint of dispute received by the shipping master from an Indian seaman, on a vessel registered in a country other than India, in Indian territorial waters, with the master, owner or agent.”.

Insertion of new
section 138A.

4. After section 138 of the principal Act, the following section shall be inserted, namely:—

Working hours
of seamen.

“138A. The ordinary hours of work for all seamen shall not exceed forty-eight hours in a week.”.

Amendment of
section 369.

5. In section 369 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) The Central Government shall, on receipt of the investigation report from the court, cause it to be published in the Official Gazette.”.

Amendment of
section 436.

6. In section 436 of the principal Act, in sub-section (2), in the table, after serial number 42 and the entries relating thereto, the following shall be inserted, namely:—

| | | | |
|------|--|------|--|
| “42A | If the master or owner contravenes the provisions of section 138A | 138A | Fine which may extend to double the average wages per hour payable to the seaman for working beyond forty-eight hours”. |
|------|--|------|--|

Repeal and
saving.

7. (1) The Merchant Shipping (Amendment) Ordinance, 1998, is hereby repealed.

Ord. 7 of 1998.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

One of the objectives of the Merchant Shipping Act, 1958 is to foster the development and ensure efficient maintenance of Indian Mercantile marine sector in a manner best suited to serve the national interests. Indian merchant ships are required to comply with the various Conventions of both the IMO and ILO, wherever India is a signatory to such Conventions. One such Convention is ILO Convention No. 147, which stipulates safety standards, including standards of competency, hours of work and manning so as to ensure safety of life on board ship and ship board conditions of employment and ship board living arrangement, etc.

2. As the Merchant Shipping Act, 1958 already embodies certain requirements of the ILO Convention No. 147, it is necessary to amend that Act only to the extent of dealing with the complaints from Indian Seamen on foreign vessels and foreign seamen on foreign vessels in the Indian territorial waters, publication of investigation report in the Official Gazette received from the Judicial Magistrate empowered by the Central Government or the Metropolitan Magistrate, who may be asked to make formal investigation into shipping casualties, and providing for maximum hours of work beyond that the limit of hours so prescribed.

3. As the ILO Convention No. 147, to which India has become a signatory now, came into force in India with effect from 26th day of September, 1997, it was considered necessary to take immediate steps to amend the Merchant Shipping Act, 1958. As Parliament was not in session, the President promulgated the Merchant Shipping (Amendment) Ordinance, 1997 (Ord. 19 of 1997) on the 26th day of September, 1997. The Bill to replace the Ordinance on the opening day of Winter Session of Parliament convened on 17.10.1997 could not be introduced in the Rajya Sabha as both Houses of Parliament could not conduct their normal business and thereafter the Lok Sabha had been dissolved by the President on 4.12.1997. The President re-promulgated the Merchant Shipping (Amendment) Second Ordinance, 1997 (Ord. 27 of 1997) on 25th day of December, 1997 to have continuity of amendment made in the Merchant Shipping Act.

4. After constitution of the 12th Lok Sabha, Parliament had a short session in February, 1998 when only oath taking of members and confidence motion of a new Government and Vote on Account could be passed. It did not take up any normal legislative business for consideration and passing. Therefore, it became essential to again re-promulgate the Ordinance for the third time on 23.4.1998 namely the Merchant Shipping (Amendment) Ordinance, 1998 (Ord. of 1998) to have continued effect of the amendments made in Merchant Shipping Act, in pursuance of ratification on ILO Convention by India.

5. The Bill seeks to replace the aforesaid Ordinance promulgated in April, 1998.

M. THAMBI DURAI.

II

BILL No. VII OF 1998

A Bill further to amend the Representation of the People Act, 1951.

Be it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Representation of the People (Amendment) Act, 1998.

Short title and
commencement.

(2) It shall be deemed to have come into force on the 23rd day of December, 1997.

Substitution
of new
section for
section 159
of Act
43 of 1951.

Staff of certain
authorities to
be made
available for
election work

2. For section 159 of the Representation of the People Act, 1951 (hereinafter referred to as the principal Act), the following section shall be substituted, namely:—

“159. (1) The authorities specified in sub-section (2) shall, when so requested by a Regional Commissioner appointed under clause (4) of article 324 or the Chief Electoral Officer of the State, make available to any returning officer such staff as may be necessary for the performance of any duties in connection with an election.

(2) The following shall be the authorities for the purposes of sub-section (1), namely:—

(i) every local authority;

(ii) every university established or incorporated by or under a Central, Provincial or State Act;

(iii) a Government company as defined in section 617 of the Companies Act, 1956;

(iv) any other institution, concern or undertaking which is established by or under a Central, Provincial or State Act or which is controlled, or financed wholly or substantially by funds provided, directly or indirectly, by the Central Government or a State Government.”.

1 of 1956.

Repeal and
saving.

Ord.
12 of 1998.

3. (1) The Representation of the People (Amendment) Ordinance, 1998, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

Clause (6) of article 324 of the Constitution provides that, on the request of the Election Commission, the President or the Governor of a State shall make available to the Election Commission such staff as may be necessary for the discharge of its functions. Further, section 159 of the Representation of the People Act, 1951 provides that every local authority in a State shall, when so requested by a Regional Commissioner or the Chief Electoral Officer of the State, make available to any returning officer such staff as may be necessary for the performance of any duties in connection with an election.

2. The Supreme Court of India, taking note of aforesaid provisions of law, held in its judgement dated the 7th February, 1995 in Civil Appeal No. 6026 of 1993—Election Commission of India vs. State Bank of India Staff Association, Patna and others and Civil Appeal No. 4611 of 1989 — Election Commission of India vs. Northern Zone Insurance Employees Association, Rajasthan, AIR 1995 SC 1078, that the Election Commission cannot requisition the services of employees of State Bank of India and Life Insurance Corporation of India for election duties as such employees are neither employees of the Central Government nor of a State Government nor of a local authority. It observed that the persons whose services may be placed at the disposal of the Election Commission must be persons who are either employees of the Central Government or of the State Government or of local authorities.

3. In view of the aforesaid judgements of the Supreme Court, difficulty was being experienced by the Election Commission in deploying the requisite number of employees for election duties. The Election Commission, accordingly, requested that section 159 of the Representation of the People Act, 1951 may be amended to provide that, in addition to local authorities, all public sector undertakings of the Central Government and State Governments, all statutory and non-statutory bodies aided by the Government, all universities and all other educational institutions aided by the Government should also make their staff available for election duties.

4. In the wake of general elections to the Twelfth Lok Sabha, the President promulgated an Ordinance, namely, the Representation of the People (Amendment) Ordinance, 1997 on 23rd December, 1997 to provide for requisitioning of services for election work of employees of, apart from local authorities, every university and any other institution, concern or undertaking (not being an institution, concern or undertaking established under a Central, Provincial or State Act or a company within the meaning of section 617 of the Companies Act, 1956) controlled, or financed wholly or substantially by funds provided, directly or indirectly, by the Central Government or a State Government. The President promulgated the Representation of the People (Amendment) Ordinance, 1998 (Ord. 12 of 1998) on the 24th April, 1998 to give continued effect to the provisions of the aforesaid 1997 Ordinance and to avoid any difficulty to the Election Commission in holding elections in the interregnum.

5. It has since been decided that apart from the categories of employees brought under the ambit of section 159 of the Act by the aforesaid Ordinances, employees of public sector enterprises, etc. should also be brought under the ambit of that section.

6. The Bill seeks to replace the Representation of the People (Amendment) Ordinance, 1998 with the above modifications.

M. THAMBI DURAI

Memorandum explaining the modifications contained in the Bill to replace the Representation of the People (Amendment) Ordinance, 1998.

It is proposed to modify clause 2 which seeks to substitute section 159 of the Representation of the People Act, 1951 so as to enable the Regional Commissioner or the Chief Electoral Officer of the State to make available the staff of a Government company or of any institution, concern or undertaking, which is established by or under a Central, Provincial or State Act or controlled or financed wholly or substantially by funds provided, directly or indirectly, by the Central Government or a State Government.

2. It is also proposed to make certain other modifications of a consequential or drafting nature.

R.C. TRIPATHI,
Secretary-General.

